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New Hampshire Code of Administrative Rules
Env-Wm 1402

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Env-Wm 1402

Adopted 04-21-97
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PART Env-Wm 1402 CONTROL OF ABOVEGROUND PETROLEUM STORAGE FACILITIES

Statutory Authority: RSA 146-A:ll-c

Env-Wm 1402.01 Purpose. The purpose of these rules is to minimize contamination of the waters and land of the state due to the improper storage and handling of motor fuels, heating oils, lubricating oils, insulating oils, other petroleum products, and petroleum contaminated liquids by establishing requirements for the registration, design, installation, operation, maintenance, and monitoring of above-ground petroleum storage facilities.

Env-Wm 1402.02 Applicability.

(a) These rules shall apply to the following above-ground oil storage facilities:

(1) Those facilities having a single tank system with an oil storage capacity of more than 660 gallons, intended for storage, transfer, or distribution of oil, and

(2) Those facilities with 2 or more tank systems with a combined oil storage capacity of more than 1,320 gallons, intended for storage, transfer, or distribution of oil. The combined oil storage capacity shall be determined using:

a. Only tank systems on a facility with an oil storage capacity of 86 gallons or more, and

b. Five or more standard storage drums containing the same product at the same location on the facility.

(b) The following types of above-ground oil storage systems shall not be subject to the rules contained in this part:

(1) Any tank system(s), with a combined oil storage capacity of 10,000 gallons or less, containing heating oil used only for on-premise heating of structures;

(2) Any storage tank designed for and containing any liquid which is gaseous at atmospheric temperature and pressure;

(3) Any flow-through process system which forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of petroleum materials during the operation of the process. Flow-through process systems shall not include tank systems used for the storage of petroleum prior to their introduction into the production process or for the storage of finished products or by-products from the production process that

contain a petroleum substance;

(4) Oil-transmission pipelines subject to the Natural Gas Pipeline Safety Act of 1968 or the Hazardous Liquid Pipeline Safety Act of 1979;

(5) Any stormwater or wastewater collection, treatment, or discharge system;

(6) Any storage system where 10 percent or more of the total volume of the tank(s) and associated piping is in contact with soil and below the surface of the ground;

(7) Facilities containing radioactive material regulated under the Atomic Energy Act of 1954;

(8) Tanks that are used for emergency spill or overflow containment systems that are immediately emptied after introduction of a petroleum substance;

(9) Non-stationary equipment that contains oils for operational purposes; and

(10) Mobile tanks engaged in transporting oil from one location to another and which are required to meet applicable requirements of the United States Department of Transportation and the New Hampshire department of safety.

(11) Those tank systems designed and used to store oil which is in the solid phase at atmospheric temperature and pressure, which do not the applicability of Env-Wm 1402.31.

(12) Oil-filled electrical equipment not meeting the applicability of 1402.32.

Env-Wm 1402.03 Definitions.

(a) "Abandoned AST system" means an AST system that is one of the following:

(1) A shop-fabricated system at which the owner or operator has not introduced oil to or removed oil from the system at any time during the 10 years prior to the effective date of these rules; or

(2) A field-erected tank system at which the owner or operator has not introduced oil to or removed oil from the system at anytime during the 15 years prior to the effective date of these rules.

(b) "Aboveground Storage Tank" ("AST") means a device constructed of impermeable material(s), designed to wholly enclose oil and which is not considered a tank in an underground storage tank system as regulated by RSA 146-C and Env-Ws 411 or its successive parts.

(c) “AST system” means one or more aboveground storage tanks in combination with piping, pumps, containment structures, monitors, or other appurtenances, used to contain, receive, or dispense oil.

(d) “Cathodic protection system” means a method to prevent corrosion to metal objects by forcing protective current from an external source onto the structure to be protected to counter or overcome any corrosion activity on its surface.

(e) “Cathodic protection tester” means an individual who is certified at the corrosion technician level or above by the National Association for Corrosion Engineers, or who is a professional engineer with education and experience in corrosion control.

(f) "Closure" means removing a tank from active use with the intent to not introduce oil to or otherwise use the tank for dispensing or storage of oil.

(g) "Compatible" means the ability of 2 or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of a tank system under conditions likely to be encountered at an AST facility.

(h) "Connected piping" means all piping, including valves, elbows, joints, flanges, and flexible connectors, attached to an AST system through which oil may flow.

(i) "Corrosion expert" means an individual who is either certified by the National Association of Corrosion Engineers at the cathodic protection specialist or corrosion specialist level, or who is a professional engineer with education and experience in corrosion control on buried metal systems.

(j) “Department” means the New Hampshire department of environmental services.

(k) "Discharge" means “discharge” as defined in RSA 146-A:2,I-a. namely, “the release or addition of any oil to land, groundwater or surface water.”

(l) "Existing AST system" means an AST system installed, or for which installation has begun, before the effective date of this part.

(m) "Facility" means "facility" as defined in RSA 146-A:2,IX namely, “a location, including structures or land, at which oil is subjected to treatment, storage, processing, refining, pumping, transfer, or collection.” This term includes “AST facility”.

(n) "Field-constructed AST" means an AST which is constructed by assembling on-site at a facility.

(o) “Fleet of vehicles” means five or more vehicles owned, operated, leased, or used by a person.

(p) “Floodway” means “regulatory floodway” as defined in 44 CFR 59.1 namely, the channel of a river, other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(q) "Heating oil" means petroleum that is:

(1) No.1, No.2, No.4-light, No.4-heavy, No.5-light, No.5-heavy, or No. 6 technical grade of fuel oil, and that is not a “used oil” as defined in Env-Wm 110.01(b);

(2) Any other residual fuel oil, which is not a “used oil,” such as Navy Special Fuel Oil and Bunker C; and

(3) Used as a substitute for one of the fuels listed in (1) or (2), above.

(r) "Impermeable" means a characteristic of a substance that prevents the natural transfer of oil from one medium to another.

(s) “Impressed current system” means direct current supplied to a cathodic protection system using an external power source.

(t) "Motor fuel" means petroleum or a petroleum-based substance which is typically used in the operation of a motor vehicle or aircraft engine, including:

(1) Motor gasoline;

(2) Aviation gasoline;

(3) No. 1 or No. 2 diesel fuel, and

(4) Any grade of gasohol.

(u) "New AST facility" means an AST facility for which the construction or installation begins on or after the effective date of this part.

(v) “New AST system” means an AST system for which the construction or installation begins on or after the effective date of this part.

(w) "Oil" means "oil", as defined in RSA 146-A:2,III, namely, "petroleum products and their by-products of any kind, and in any form including, but not limited to, petroleum, fuel, sludge, crude, oil refuse or oil mixed with wastes and all other liquid hydrocarbons regardless of specific gravity and which are used as motor fuel, lubricating oil, or any oil used for heating or processing. The term "oil" does not include natural gas, liquefied petroleum gas or synthetic natural gas regardless of derivation or source."

(x) “Oil-filled electrical equipment” means devices containing oil which are used in the generation, transmission, or distribution of electrical power such as: transformers, oil circuit breakers, capacitors, and voltage regulators.

(y) "Operator" means a person who has responsibility for the care, custody, and control of the daily operation of an AST facility.

(z) "Out of service" means a facility or portion thereof no longer in use, but which the owner or operator of the facility intends to return to use. Facilities or tank systems which are used for seasonal storage, for surcharge storage, or for standby storage, are not to be considered “out of service”.

(aa) "Owner" means the person in possession of or having legal ownership of a facility.

(ab) "Permeability" means the ease with which fluid can move through a material and is measured by the rate of flow in suitable units.

(ac) “Pipe" means an impermeable hollow cylinder or tubular conduit that conveys or transports oil, or is used for venting, filling, or removing oil or oil vapors.

(ad) “Professional engineer” means "engineer”, as defined in RSA 310-A:2,II, namely,”a person who by reason of his or her advanced knowledge of mathematics and the physical sciences, acquired by professional education and practical experience, is technically and legally qualified to practice professional engineering, and who is licensed by the [New Hampshire] board [of engineers] or otherwise authorized by RSA 310-A to engage in the practice of engineering.”

(ae) “RCRA” means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 USC section 6901 et seq.

(af) "Release detection" means electronic or manual measurement of the AST system which notifies the operator of the failure of a system's ability to contain liquid.

(ag) "Release prevention" means a program of routine, documented, and visual inspection which is designed to identify the potential for a discharge of oil to the environment and the subsequent action to ensure the release does not occur.

(ah) “Sacrificial anode system” means a system to control corrosion of a metal surface which entails installing an electrode of an electrochemical cell that will oxidize preferentially to the metal surface that has been made the cathode of the electrochemical cell.

(ai) "Secondary containment" means a device or system or a combination of devices or systems which include(s) a surface specifically designed to contain a release from spreading vertically or horizontally to the environment after discharge from an AST or its appurtenances.

(aj) "Shop-fabricated AST” means an AST which is constructed at a tank manufacturer's

plant and transported to a facility for installation.

(ak) “Special Flood Hazard Area” of “SFHA” means the area of land that has a one percent or greater chance of being flooded in any given year, better known as the 100-year flood. The term includes those areas delineated on a Flood Insurance Rate Map as a Zone A, and in coastal areas as Zone V.

(al) "Spill Prevention Control and Countermeasure Plan" or “SPCC Plan” means the written plan required for oil storage facilities as described in 40 CFR 112.

(am) “Substantial design change” means any alteration to the location, materials, or configuration of to any components of the AST system that will have a tangible affect on the AST system’s ability to prevent, detect, or contain a potential release from the tank or its appurtenances.

(an) "Substantial modification" means one or more of the following changes to a facility:

(1) One or more new AST system(s) have been added;

(2) An AST system has been replaced, taken out of service, or permanently closed; or

(3) An AST from which there has been a release reportable under Env-Ws 412 has been replaced, substantially repaired, or permanently closed.

Env-Wm 1402.04 Reference Standards.

(a) Referenced standards shall be available for inspection at the Department of Environmental Services, 6 Hazen Drive, Concord, NH and from the following sources:

(1) American Petroleum Institute (API), 1220 L Street, N.W., Washington, D.C. 20005, (202) 682-8375.

(2) National Association of Corrosion Engineers (NACE), P.O. Box 218340, Houston, Texas 77218, (713) 492-0535.

(3) State of New Hampshire, Office of the State Fire Marshal, 10 Hazen Drive, Concord, New Hampshire 03305, (603) 271-3294.

(4) Underwriters Laboratories (UL), 333 Pfingsten Road, Northbrook, Illinois 60062; (847) 272-8800.

(5) Petroleum Equipment Institute (PEI), P.O. Box 2380, Tulsa, Oklahoma 74101 (918) 494-9696.

(b) Owners subject to this chapter shall comply with citations used in this part that refer to the publications listed below, which are hereby incorporated in this part by reference:

(1) From the American Petroleum Institute, the following:

a. Standard Number 620 - "Recommended Rules for Design and Construction of Large Welded Low-Pressure Storage Tanks", ninth edition, 1996;

b. Standard Number 650 - "Welded Steel Tanks for Oil Storage" ninth edition, 1993;

c. Recommended Practice 651 - "Cathodic Protection of Above-ground Petroleum Storage Tanks", first edition, 1991;

d. Standard Number 653 - "Tank Inspection, Repair, Alteration, and Reconstruction"second edition, 1995;

e. Recommended Practice 1615 - "Installation of Underground Petroleum Systems", fifth edition, 1996;

f. Recommended Practice 1632 - "Cathodic Protection of Underground Storage Tanks and Piping Systems" third edition, 1994;

g. Standard Number 2610 - "Design Construction, Operation, Maintenance, and Inspection of Terminal and Tank Facilities", first edition, 1994.

(2) From the National Association of Corrosion Engineers, the following:

a. Standard Number RP-0169-92 "Control of External Corrosion on Underground or Submerged Metallic Piping Systems"; and

b. Standard Number RP-0285-85 "Control of External Corrosion on Metallic Buried, or Submerged Liquid Storage Systems".

(3) From the office of the state fire marshal, the following:

a. Saf-C 6009.01 "Flammable Liquid Code;

b. Saf-C 6009.04 "Automotive and Marine Service Station Code"; and

c. Saf-C 6012.01 "Oil Burning Equipment Code" .

(4) From Underwriters Laboratories, the following:

a. Specification 142 "Steel Above-ground Tanks for Flammable and Combustible Liquids" seventh edition, 1993; and

b. Standard UL 2085 "Draft Standards for Insulated Above-ground Storage Tanks for Flammable and Combustible Liquids", first edition, 1994; and

(5) From Petroleum Equipment Institute, the following

a. Recommended Practice 200-96 - "Recommended Practices for Installation of Above-ground Storage Systems for Motor Vehicle Fueling".

(c) Where there is any conflict amongst these rules and any of the referenced standards, the most stringent shall apply.

Env-Wm 1402.05 Registration

(a) The owner of any AST facility subject to these rules shall register all AST systems at the facility with the department.

(b) To register an AST system, the owner shall provide the following information to the department on the form provided by the department or an equivalent:

(1) Name, address, and daytime telephone number of the owner of the facility;

(2) Location of the AST system(s);

(3) Intended use of the AST system(s);

(4) Name, job title, address, and telephone number of the operator in charge of the AST systems at the facility;

(5) A description of each AST system at the facility, including:

a. Status of the AST;

b. Date of AST system installation;

c. Total capacity of the AST;

d. Construction material of the AST;

e. Construction material and location of the piping;

f. Contents of the AST;

g. Description of AST system supports, if any, and height above grade.

(6) A statement of whether the AST is out of service as defined in Env-Wm 1402.03 or has been removed or dismantled;

(7) Date of current SPCC plan as required in this part; and

(8) A plan view dimensioned drawing of the facility of sufficient detail to locate the ASTs with respect to the property lines and any buildings or other structures located on the property.

(c) The owner shall sign and date all registration submittals.

(d) The owner shall report to the department in writing any significant change in the information presented on the original registration form within 30 days of the change.

(e) For the purpose of (d), above, “significant change” means:

(1) Any addition or reduction in the aggregate oil storage capacity at the facility;

(2) Any change in service as described in Env-Wm 1402.12, Env-Wm 1402.13, or Env-Wm 1402.14;

(3) Any change in the ownership of the facility;

(4) Any time the oil content of a tank is changed from a flammable liquid to a combustible liquid, as defined in Saf-C 6009.01, or vice versa;

(5) Any addition of release prevention or release detection measures to an AST system, such as:

a. The transformation from single-walled to double-walled piping;

b. The installation of high-level alarms;

c. Interstitial space monitoring devices;

d. Secondary containment;

e. Cathodic protection; or

f. Any other enhancement to an AST system that would reduce the possibility of an oil release from impacting human health, safety, or the

environment; or

(6) Any other change that affects the information provided to register the AST.

(f) No person shall operate an AST facility that is subject to these rules which is not registered with the department.

Env-Wm 1402.06 Change in Use.

(a) The owner of any AST facility which would become subject to these rules due to a change in the use of any system or a change in the use of the property shall comply with these rules before instituting the changed use.

(b) The owner shall register the facility with the department no later than 30 days after changing the use of the system or the use of the property.

(c) The owner of an AST system shall submit an amended registration form to the department no later than 30 days after taking an AST system out of service or removing or dismantling an AST system.

Env-Wm 1402.07 Transfer of Ownership.

(a) When a transfer of ownership of an AST facility occurs, the new owner shall file an amended registration form with the department no later than 30 days after the transfer.

(b) The seller/former owner shall deliver to the buyer/new owner all available documents and information related to the ASTs, facility, or AST system, such as:

(1) Product inventory records;

(2) Any approved plans for new installations;

(3) Copies of registration forms;

(4) Testing data and reports;

(5) Reports documenting AST system closure and removal;

(6) Tank lining specifications used, if applicable;

(7) Monitoring records;

(8) Soil and/or groundwater sampling and laboratory chemical analyses reports;

(9) Site assessment reports;

(10) Equipment maintenance schedules and logs;

(11) Repair records; and

(12) Any other records required to be maintained by Env-Wm 1402.34.

Env-Wm 1402.08 Owner Responsibility. The owner may delegate responsibilities imposed by Env-Wm 1402 to a person responsible for the day-to-day operation of the facility. Delegation shall not relieve the owner from liability for non-compliance with these requirements.

Env-Wm 1402.09 Inventory Monitoring.

(a) The owner of any of the following AST systems shall conduct monthly inventory monitoring:

(1) AST systems used to store oil for distribution;

(2) AST systems used to store motor fuel for a fleet of vehicles or aircraft; or

(3) AST systems where any portion of the tank system is in contact with the ground or soil.

(b) Owners of ASTs systems subject to inventory monitoring shall maintain separate written records for each AST or interconnected system, and shall certify the accuracy of the inventory monitoring by signing the records.

(c) AST inventory control measurements shall be reconciled by comparing product measurements with shipments, deliveries, and internal transfers.

(d) The owner shall investigate and resolve the cause of any significant loss in inventory, such as any unexplained difference of 2.0 percent or more of throughput in one month, as indicated by the recording and reconciliation of inventory records.

(e) If an unexplained physical loss of oil is evident following the investigation, the owner shall notify the department in accordance with RSA 146-A:5.

Env-Wm 1402.10 Oil Transfers Oil transfers shall be performed in accordance with US DOT HM 181, part HM-126F that requires the operator of the vehicle effecting the transfer to be periodically trained to transport and handle hazardous materials.

Env-Wm 1402.11 Suspected Discharge and Testing Requirements.

(a) When a discharge of oil from an AST system is suspected or appears probable, the owner shall:

(1) Notify the department in accordance with Env-Ws 412; and

(2) Within 90 days of discovery:

a. Take the tank out of service in accordance with Env-Wm 1402.12;

b. Replace the tank, ensuring that the replacement AST system meets all new tank standards described in this part; or

c. Inspect and test the tanks or equipment for tightness and structural soundness using an appropriate testing method.

(b) Depending on the size and construction of the tank, testing considered appropriate may include, hydrostatic testing, pressure testing, penetrant dye testing, magnetic flux testing, infrared scanning, and leak testing.

(c) The appropriate testing method shall be approved by a national tank, standards, or petroleum industry association such as:

(1) For field-constructed ASTs, the American Petroleum Institute: or

(2) For shop-fabricated ASTs, Underwriter's Laboratory or the American Petroleum Institute.

(d) The owner shall notify the department of actions taken and the results of any testing performed in accordance with (a)(2)c., above within a reasonable amount of time not to exceed 90 days of its being performed.

(e) Notification shall include the following:

(1) Description of actions taken;

(2) Location of the tested AST;

(3) Date of the test;

(4) Reason for the test;

(5) Type of testing employed;

(6) The identity and qualifications of the person performing the test; and

(7) Results of the testing.

(f) Testing shall be performed by or under the supervision of an individual certified by industry associations such as API or American Society of Mechanical Engineers.

Env-Wm 1402.12 Out of Service AST Systems.

(a) If oil is not introduced to or removed from an AST system designed and intended for the throughput of oil for 36 months or more, the tank system shall be taken out of service.

(b) Those AST systems intended solely for storage, such as back-up tanks for emergency power generation or long-term energy reserves, shall be considered out of service when the contents of such a tank has remained at the lesser of the following for the previous 36 months:

(1) One percent of the total system capacity or less; or

(2) Less than 3 inches in depth.

(c) The owner of an AST system taken out of service shall:

(1) Remove all oil from the AST and connected piping;

(2) Secure the AST to prevent unauthorized entrance or tampering so that oil is not accidentally or intentionally introduced into the tank, by means such as securely bolting and locking all manways and valves or capping or plugging fill lines, gauge openings, or pump lines;

(3) Thoroughly clean the interior of the tank and all associated piping of all sludge, solids, and residual oil;

(4) Dispose of all oily wastes removed from the AST system in accordance with all applicable state and federal requirements;

(5) Render the tank free of petroleum vapors sufficiently to avoid formation of an explosive atmosphere, and ensure the tank is vented to ensure the tank remains vapor free.

(d) Upon taking an AST system out of service, the owner shall:

(1) Comply with Env-Wm 1402.06 relative to notifying the department of a change in use;

(2) Prominently stencil on the tank the words “out of service” in large, easily visible block letters; and

(3) Prominently post and securely affix the tag described in (e) below at the fill pipe connection serving the out-of-service tank, or, if the fill pipe is also used to fill active tanks, at the first valve after the fill pipe connection used to divert flow to the out-of-service tank.

(e) Tags used to signify an out-of-service tank system shall be provided by the department. The tag shall remain affixed to the AST system during the entire time the tank is out of service. The owner shall promptly replace any mutilated, lost, illegible, or destroyed tag by contacting the department.

Env-Wm 1402.13 Reactivating Out of Service Tank Systems.

(a) An AST system which has been taken out of service shall not be placed back into service, nor shall oil be introduced into the system, until the owner certifies to the department in writing that the system is in compliance with applicable rules.

(b) An AST system owner, who reactivates an AST system which has been out of service shall notify the department by amending the registration form required by Env-Wm 1402.05 no later than 30 days after putting the AST system back into service.

(c) Prior to placing an AST system back into service, the owner shall thoroughly inspect and test the AST system for evidence of the following conditions:

(1) Corrosion of the interior or exterior of the tank or associated piping;

(2) Abnormal thinning of the tank walls or bottom;

(3) Perforations through the tank walls or bottom; and

(4) Any other condition that would indicate a weakening of the structural integrity of the AST system or identify a situation which could result in a petroleum release from the AST system.

(d) All such testing and inspections shall be conducted in accordance with Env-Wm 1402.11 and Env-Wm 1402.29.

Env-Wm 1402.14 Removal of AST Systems.

(a) Within 3 years of the effective date of this part, the owner of property containing an abandoned AST system shall dismantle and remove the abandoned AST system from the property.

(b) An owner who has dismantled and removed an AST system shall notify the department not later than 30 days after the start date of beginning the planned removal, by submitting an amended registration form described in Env-Wm 1402.05.

(c) If, during the tank closure, there is evidence of soil or groundwater contamination from oil detected by assessment, observation, or analysis, the owner shall notify the department immediately and shall comply with all requirements of Env-Ws 412.

Env-Wm 1402.15 Site Assessment After Removal.

(a) After dismantling and removing an AST system in which any tank, valve, pump, or section of piping was in contact with the ground and which did not have impervious containment, or, where there is evidence that oil has been released to the facility from the AST system, the owner of the AST system shall assess the site to determine whether there is soil and/or groundwater contamination attributable to the AST system.

(b) The assessment to determine if any contamination is present shall be performed using the following investigative methods, as applicable, for the assessment:

(1) Test pits shall be excavated or soil borings advanced in the immediate vicinity of the AST system, and representative soil or groundwater samples shall be obtained;

(2) Soil or groundwater samples shall be obtained from the ground surface immediately beneath the tanks, the test pits or soil borings, and beneath the adjacent system piping; and

(3) All release detection devices or subsurface monitoring locations shall be sampled.

(c) The soil or groundwater samples shall be screened for the presence of contamination in the field using sensory observation and an organic vapor analyzer.

(d) A subset of those soil and groundwater samples screened which are representative of the conditions found in the vicinity of the facility subject to the investigation shall be submitted to a laboratory certified pursuant to Env-C 300 for analysis. The subset of screened samples submitted for laboratory analysis shall include a sample obtained from the same location as the screened sample which contained the highest concentration of volatile organics.

(e) Samples shall be analyzed for:

(1) Volatile organic compounds (VOC) and total petroleum hydrocarbons (TPH) if the system stored motor fuels other than diesel fuel;

(2) Total petroleum hydrocarbons (TPH) and polycyclic aromatic hydrocarbons (PAHs) if the system stored diesel fuel, fuel oils, or asphalt; or

(3) For AST systems that stored waste oil:

a. TPH and PAHs using the appropriate EPA test method; and

b. The RCRA metals, listed in Env-Wm 403 using the toxicity characteristics leaching procedure (TCLP) as defined in method 1311 of SW-846, "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods", Third edition, November 1986 as amended by Update I, July 1992; Update IIA, August 1993; Update II, September 1994; and Update IIB, January 1995.

(f) Laboratory analysis methods for the analyses described in (e) shall be as to the method prescribed in Env-Ws 412 or by current policy prescribed by the department.

(g) Results of the assessments performed under (b) and (c) above and the laboratory analysis of samples performed under (d) and (e) above shall be submitted to the department within 60 days of the AST system dismantling.

Env-Wm 1402.16 Used Above-ground Storage Tanks.

(a) A tank which has been removed shall not be reinstalled for the purpose of petroleum storage unless it meets all applicable standards for new tanks contained in Env-Wm 1402.18 and Env-Wm 1402.20 at the time the tank is to be installed. Such tanks shall be reinstalled and tested in accordance with this part.

(b) If a used tank meets the standards for new tanks, it may be reinstalled for petroleum storage only after:

(1) A thorough internal and external cleaning and inspection determines that it is free of pinholes, cracks, structural damage, or excessive corrosion; and

(2) The tank is determined to be structurally sound by a professional engineer or an inspector certified by API under the API 653 certification program to perform AST system inspections.

(c) If a shop-fabricated tank is to be disposed of as scrap, it shall first be tested for petroleum vapors, rendered vapor free, if necessary, and punched with holes to make it unfit for storage of liquids.

(d) Tanks or AST systems shall not be reused for the storage of food or potable water.

(e) A tank which has been designed for installation as an underground storage tank shall not be installed or used as an AST.

Env-Wm 1402.17 Requirements for Approval of AST Systems.

(a) At least 45 days prior to commencing construction or installation of a new or replacement AST system with an oil storage capacity of more than 660 gallons, the owner shall submit to the department complete plans and specifications that have been prepared and stamped by a professional engineer.

(b) Plans and specifications shall include, as applicable:

(1) A plan view depiction of the AST system to be installed;

(2) Details showing the proposed method of overfill protection and secondary containment;

(3) The design of the proposed cathodic protection system, if applicable;

(4) Description of the AST(s) to be installed, including dimensions, capacity, construction, manufacturer’s name and address, model number, supplier’s name and address, and any other information that completely describes the AST;

(5) Description of piping to be used, including pipe diameters, materials, connections, and piping diagrams, as applicable;

(6) A locus showing the relation of the AST system to the site and the site to the surrounding area; and

(7) Any other information that will accurately convey the intended AST system configuration.

(c) Within 45 days of submission of a complete set of plans and specifications, the department shall:

(1) Approve the plans if they demonstrate compliance with the requirements of this part; or

(2) Issue a notice of incompleteness or disapproval for plans which are incomplete or do not demonstrate compliance with this part, respectively.

(d) During construction, an owner shall not cause or allow a substantial design change which is not in accordance with the approved plans and all terms and conditions of the department's approval.

(e) All substantial design changes shall be approved in writing by the design engineer of record and resubmitted for department approval.

(f) An approval shall be valid for one year from the date of issuance. If construction of the AST system is not initiated within one year of issuance of a local building permit, the approval shall lapse. For the purpose of this rule, initiated shall mean construction equipment commonly used in facility or system construction has been mobilized to the site and that materials used in the construction of facility or tank system have been delivered to the site. An owner may request a waiver from the one-year expiration period in accordance with Env-Wm 1402.36.

(g) Department approval for installation of an AST system shall not eliminate the need to obtain applicable approvals and/or permits from the authority(ies) enforcing the State Fire Code and local building codes.

Env-Wm 1402.18 Tank Standards for New AST Facilities.

(a) All new ASTs regulated under this part that do or will contain oil shall:

(1) Be constructed of steel; and

(2) Meet or exceed the following design or manufacturing standards, as applicable:

a. UL No. 142, for shop-fabricated steel tanks;

b. API Standard 620, for field-constructed, low pressure steel tanks;

c. API Standard 650, for shop-fabricated and field-constructed atmospheric steel tanks;

d. UL 2085, for fire resistant, fire protected, and insulated steel tanks;

e. PEI/RP 200-96, for AST systems storing motor fuels, or

f. API Standard 2165, for AST facilities and terminals.

(b) All new AST systems shall be located, designed, and installed in accordance with the following requirements, as applicable:

(1) Saf-C 6009.04, for systems used in the storage of oil at automotive and marine service stations;

(2) Saf-C 6012.01, for systems used in the storage of oil directly associated with on-premise-use heating of the facility, pursuant to RSA 146-E:4; or

(3) Saf-C 6009.01, for all other systems subject to this part.

(c) All new ASTs in contact with the ground shall be placed on an impermeable barrier. The integrity of the barrier shall not deteriorate due to exposure to the elements or soil in the presence of oil.

(d) Tank barriers shall be constructed of:

(1) An impermeable material such as a 60 mil high-density polyethylene or a material of similar or more stringent specifications; or

(2) A double bottom with the annular space continually monitored for the presence of petroleum leakage in accordance with Env-Wm 1402.25. Continuous corrosion protection shall be installed in accordance with Env-Wm 1402.20 for any steel or other metal in contact with the ground.

(e) Each AST system with a storage capacity of 660 gallons or more shall be marked with information regarding the product stored and system specifications, as follows:

(1) All lettering shall be at least 2 inches high and shall be painted in a color contrasting with the color of the tank;

(2) The appropriate national fire rating system symbol as established by NFPA-704, Identification of Fire Hazards and Materials;

(3) The tank number, which corresponds to the tank number identified on the facility registration(s) as described in Env-Wm 1402.05; and

(4) The safe fill volume or safe fill height of the tank which corresponds to the height at which the high level alarm is activated.

Env-Wm 1402.19 New Piping Standards for AST Systems.

(a) All new piping associated with an AST system shall be constructed above ground where possible. Piping systems not in contact with the soil shall be constructed in accordance with API 2610, Saf-C 6009.01, and as recommended by the manufacturer.

(b) All piping materials shall be compatible with the oil that is to be stored in the AST system, according to manufacturer’s recommendations.

(c) All fill pipes leading to a pump-filled oil tank shall be equipped with a properly functioning check valve or equivalent device which provides automatic protection against backflow whenever the piping arrangement of the fill pipe is such that backflow from the receiving tank is possible.

(d) Each tank connection through which oil can normally flow shall be equipped with an operating valve to control flow unless the tank connection is located at a point higher than the highest liquid level in the tank, such as at the top of a horizontal tank. The valve shall be located as close as practicable to the shell of the tank.

(e) All piping from 3 to 12 inches in diameter shall be constructed of:

(1) Carbon steel, schedule 40 or greater,

(2) Stainless steel, schedule 20 or greater, or

(3) Galvanized steel, schedule 40 or greater.

(f) All piping greater than 12 inches in diameter shall be of standard grade according to ANSI B36.10.

(g) All joints on steel piping one inch in diameter or greater shall be welded or welded flanged.

(h) All piping less than 3 inches in diameter, fittings and connections that are either in contact with the soil or completely buried shall:

(1) Be constructed of fiberglass reinforced epoxy, carbon steel, thermoplastic material extrusions, stainless steel, or galvanized steel; and

(2) Conform to the following standards as applicable:

a. Fiberglass reinforced epoxy piping shall meet ASTM Specification D-2996-71, Standard Specification for Filament Wound RTRP, and UL Subject 971, "Non-Metallic Underground Piping for Flammable Liquids". Ultimate sheer strength of adhesive and curing agent shall be in compliance with ASTM D-2517-66T, as approved and supplied by the manufacturer.

b. Thermoplastic extrusion flexible piping shall meet UL Standard for Non-Metallic Underground Piping for Flammable Liquids, Subject 971;

c. Steel piping shall:

1. Have a galvanized coating;

2. Be schedule 40 or heavier; and

3. Have secondary containment. Metal secondary containment shall have protective wrapping or di-electric coating and shall be cathodically protected by an impressed current system or sacrificial

anode system.

d. Stainless steel piping shall:

1. Be schedule 20 or heavier; and

2. Have secondary containment. Metal secondary containment shall have protective wrapping or di-electric coating and shall be cathodically protected by an impressed current system or sacrificial anode system.

(i) All steel or metallic piping in contact with or completely surrounded by soil shall be cathodically protected by an impressed current system or sacrificial anode system. Steel piping installation shall meet standards in API Recommended Practice 1615 "Installation of Underground Petroleum System".

(j) Any cathodic protection system for the piping shall be designed and installed in accordance with Env-Wm 1402.20.

(k) If metal pipe is totally electrically isolated from the soil via secondary containment sufficient to place the pipe in a non-corrosive environment, cathodic protection of the piping shall not be required.

(l) New underground piping systems shall be designed, constructed, and installed with access and isolation points to permit independent pressure testing of piping without the need for excavation.

(m) Copper tubing shall not be used in AST system applications requiring the use of:

(1) Piping greater than ½ inch in diameter or,

(2) Piping to transfer oil under pressure.

(n) Copper tubing that is not completely exposed to the atmosphere shall be contained in a continuous non-metallic sleeve or otherwise protected from damage and corrosion.

Env-Wm 1402.20 Corrosion Protection for New Steel Tanks and Piping.

(a) Corrosion protection for AST bottoms in contact with the soil shall:

(1) Consist of sacrificial anode system or an impressed current system designed, fabricated, and installed in accordance with API recommended practice 651 or NACE standard number RP-0285-85;

(2) Be designed and installed with oversight by a certified corrosion expert or a professional engineer;

(3) Be designed to provide corrosion protection for the expected active life of the AST system or have provisions to allow for the periodic rehabilitation of the anode system; and

(4) Have a test station or other method of monitoring which enables the owner to confirm that the cathodic protection system is operating properly.

(b) Sacrificial anode systems shall be tested within 6 months of installation and every 3 years thereafter by a cathodic protection tester.

(c) Monitors for impressed current systems shall be checked monthly. Checks of impressed current systems may be performed by verifying that electrical current is continuing to flow through the system.

(d) If at any time the monitor or testing shows that the electrical current necessary to prevent corrosion is not being maintained, the source of the failure shall be investigated and the system restored within 60 days.

(e) Corrosion protection for piping systems shall be designed and constructed in accordance with Saf-C 6009.01, API 1615, API 1632, or NACE RP-0169, as applicable.

(f) The exterior surfaces of all tanks and exposed piping shall be painted or coated to prevent corrosion or other deterioration. Such coatings shall be maintained in good condition.

Env-Wm 1402.21 <u>New Secondary Containment for AST Systems.</u>

(a) No person shall construct or operate any new AST system without secondary containment.

(b) New secondary containment shall be constructed so that spills will not permeate into the soil more than one foot within 72 hours, or infiltrate or otherwise escape to the groundwater or surface waters before cleanup occurs.

(c) Secondary containment shall consist of a combination of dikes, liners, pads, ponds, impoundments, curbs, ditches, sumps, receiving tanks, or other equipment capable of containing the product stored.

(d) The storage capacity of the secondary containment shall be of sufficient volume to contain the entire contents of the largest single tank plus the greater volume of the following:

(1) 10 percent of the capacity of the largest tank within the enclosure; or

(2) The volume of precipitation that would fall within the containment area within 24-hours during a 10-year storm event as determined by the rational method as described in the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, dated August 1992, for determining stormwater runoff, if the containment area is not roofed or otherwise protected from the accumulation of precipitation.

(e) If secondary containment consists of diking surrounding the tank, construction of diking shall be in accordance with Saf-C 6009.01.

(f) Secondary containment lining materials shall be constructed and maintained to meet permeability requirements for the operational life of the AST.

(g) The provisions of (a) - (f) above shall not apply to any tank that is located inside a building, provided:

(1) The installation of the tank complies with Saf-C 6009.01 or Saf-C 6012.01, as applicable;

(2) The entire floor of the room in which the tank and its associated piping is located is constructed of concrete or an impervious material;

(3) The floor does not have any floor drains, cracks, or openings that would permit the migration of oil through the floor; and

(4) A release of the total contents of the tank will remain confined to the room in which the system is situated.

(h) A double-walled tank may be used in lieu of the requirements of (b)-(e), above, if the double-walled tank is installed with all of the following:

(1) Overfill protection as required in Env-Wm 1402.24;

(2) Interstitial monitoring, as required in Env-Wm-1402.25 (a) and (b);

(3) An oil transfer pump with an independent high-level detection system that will automatically shut down the transfer pump and prevent flow of oil to the tank, which shall be activated:

a. When the tank is filled to 95 percent of the total capacity of the tank for tanks with a storage capacity of 12,000 gallons or less; or

b. When the tank is filled to one percent less than the calculated maximum safe fill height for tanks with a storage capacity of greater than 12,000 gallons; and

(4) An ability to contain an overfill from the vent pipe.

(i) If not roofed or otherwise protected from the accumulation of precipitation, the secondary containment area shall be equipped with a manually-controlled pump or siphon or a gravity drain pipe which has a manually-controlled valve, to remove stormwater that collects within the secondary containment system.

(j) All pumps, siphons, and valves shall be maintained in good condition to prevent stormwater from leaking from the system. If gravity drain pipes are used, all valves shall be locked in a closed position except when the operator is in the process of draining water from the area. Gravity drain pipes shall be designed and constructed to prevent a release in the event of fire.

(k) All piping passing through secondary containment walls shall be sealed around the outside of the piping with an impervious compatible material to prevent the discharge of oil through the walls.

(l) Secondary containment liners constructed of natural materials shall be tested and certified by a professional engineer during installation to ensure the permeability standard specified in (b), above, such as by ASTM D2434 and ASTM D2922, D5084, or equivalent method.

Env-Wm 1402.22 Secondary Containment for New Piping for AST Systems.

(a) All new piping and heating oil system return piping that is buried beneath the ground surface shall have secondary containment such as:

(1) Double-wall piping; or

(2) An engineered piping trench liner system.

(b) All system piping extending over the surface waters of the state not regulated by the U.S. Coast Guard pursuant to 33 CFR 154 shall have double-wall piping as secondary containment .

(c) Piping systems with secondary containment shall be pitched to direct any leakage from the primary piping to a containment area.

Env-Wm 1402.23 Petroleum Transfer Pumps. The base of oil transfer pumps shall not be placed directly on the ground surface. Oil transfer pumps shall be secured to and separated from the ground surface by a concrete pad or other impermeable barrier and firmly secured to a foundation capable of supporting the weight of the pump and the mechanical stresses commonly associated with the operation of the pump.

Env-Wm 1402.24 Overfill Protection.

(a) All AST systems shall be equipped with a gauge or other measuring device which accurately shows the level of product in the tank.

(b) All new AST systems shall have a high level warning alarm, operating independently of the tank gauge, that is both audible and visible to the person controlling the transfer of oil.

(c) The high level warning alarm shall be activated:

(1) For tanks with a storage capacity of 12,000 gallons or less, when the tank is filled to 90 percent of the total capacity of the tank; or

(2) For tanks with a storage capacity of greater than 12,000 gallons, when the tank is filled to 3 percent less than the calculated maximum safe fill height.

(d) A vent alarm may be used in lieu of the requirements for (b), above, in AST systems with an oil storage capacity of 660 gallons or less, and where the opening for the vent pipe is located no more than 10 feet of the fill pipe connection.

Env-Wm 1402.25 Interstitial Leak Monitoring for New ASTs.

(a) Any interstitial spaces, including but not limited to those located in double-walled tanks, double-walled piping, and double bottoms that are installed as part of new or upgraded AST facilities, shall be equipped with interstitial monitoring equipment.

(b) The interstitial monitoring equipment shall be capable of detecting a discharge of oil or vapors, or intrusion of water into the interstitial space. The monitoring equipment shall be constructed so groundwater, rainfall, or soil moisture will not render the testing or sampling methods used inoperative.

(c) The requirements of (a) and (b) above shall not apply to double-walled tanks that are not in contact with the soil and that are completely surrounded by a dike or other means of secondary containment as described in Env-Wm 1402.21.

Env-Wm 1402.26 Installation of New Above-ground Storage Tank Systems.

(a) AST systems shall be installed according to the manufacturer's requirements and national and industry codes based on plans approved by the department in accordance with Env-Wm 1402.17.

(b) Installation of items having no manufacturer's requirements shall be installed

according to:

(1) PEI Recommended Practice 200-96 for the installation of ASTs used for the refueling of motor vehicles;

(2) API 2610 for the installation of bulk petroleum storage facilities; and

(3) API 620 and API 650 for field-constructed tanks.

(c) AST systems shall be located and spaced according to the rule described in Env-Wm 1402.18(b).

(d) New AST systems shall not be constructed within the floodway portion of the 100-year special flood hazard area.

(e) New ASTs, pipes and distribution equipment shall not be located along highway curves or otherwise exposed to traffic hazards without suitable protection. For the purposes of this rule, suitable protection shall mean protection that will protect against an impact equal to the design speed of the roadway.

(f) New AST systems shall be physically protected from vehicular collision by fencing, barriers, or bollards. Bollards shall be spaced no more than 4 feet apart. All barriers shall be painted with a reflective paint or be partially covered with a reflective tape.

(g) Before being placed in service, all new tanks or reconditioned tanks shall be tested for tightness and inspected in accordance with the requirements specified in API Standard 650 for field-constructed tanks or Saf-C 6009.01 for all other tank systems.

Env-Wm 1402.27 Requirements for New Oil Transfer Areas. All new areas where oil is transferred between an AST system and a truck, railcar, or other vehicle engaged in the transport of oil shall be constructed of a concrete pad or other impermeable surface. This concrete pad or impermeable surface shall be constructed of sufficient size so the entire tank portion of the oil transport vehicle is situated on the impermeable area when the transfer of oil is occurring.

Env-Wm 1402.28 Release Detection for AST Systems.

(a) The owner of a new AST system shall provide at least one of the following methods to detect a release from the tank and associated piping, as applicable:

(1) Perforated gravity collection pipes or channels that can be monitored for the presence of a release;

(2) Interstitial monitoring systems within the annular space of a double-walled tank;

(3) A finished concrete pad, completely beneath a vertical tank, that has a series of channels measuring no more than 1.5 inches wide and 0.75 inches deep extending radially outward from the center of the pad to beyond the edge of the tank.

(b) Release detection systems for piping associated with an AST system shall be monitored at least monthly.

Env-Wm 1402.29 Inspection and Reporting Requirements for AST Systems.

(a) The owner of an AST facility shall inspect the facility at least monthly by:

(1) Inspecting exterior surfaces of tanks, secondary containment vessels, pipes, valves and other associated equipment for deficiencies such as leaks, surface wetting, discoloration, blistering, or evidence of corrosion, cracks, chime distortion, or other structural damage;

(2) Inspecting for and identifying cracks, areas of wear, visible shell thinning, evidence of poor maintenance and operating practices, excessive settlement of structures, separation or swelling of tank insulation, malfunctioning equipment and structural and foundation weaknesses; and

(3) Inspecting high-level alarms and monitoring all leak detection systems which may be in place at the facility.

(b) The owner or operator shall perform a detailed inspection of the interior of any tank in an AST system having a capacity of 5,100 gallons or more in accordance with the schedule specified in (d) below, and the procedures specified in (e) below.

(c) Detailed interior inspections shall not be required for ASTs less than 20 years old that are entirely above-ground, such as tanks on racks or in cradles.

(d) Detailed inspections of tank interiors as described in (d) below, shall be performed in accordance with the following schedule:

(1) The initial inspection for previously uninspected tank systems shall be performed when the tank is 10 years old, or within 5 years of the effective date of this part, whichever is later;

(2) Any tank of an unknown age must be inspected within 5 years of the effective date of this part; and

(3) At least every 5 years for tank systems containing gasoline, and at least every 10 years for tank systems containing other motor fuels, heating oils, and fuel oils during the in-service life of the tank.

(e) Detailed inspections shall consist of:

(1) Cleaning the tank such that all visible evidence of liquids, sludges, by-products, solids, and the like are removed and the interior surface of the tank is completely visible;

(2) Removing, transporting and disposing of sludge in a manner consistent with all applicable state and federal requirements;

(3) Inspecting the tank shell for soundness and testing all welds and seams on the tank bottom for porosity and tightness in accordance with API 653; and

(4) A tightness test of any connecting underground pipes.

(f) The provisions of (e)(1) and (e)(2), above, shall not be required for existing tanks greater than 5,100 gallons that are not equipped with a manhole or other manufactured means of accessing the interior of the tank.

(g) Reports of each monthly inspection and detailed interior inspection shall be maintained and made available to the department in accordance with Env-Wm 1402.34.

(h) If any inspection reveals a leak, a tank or equipment deficiency, a deficiency in monitoring equipment, an indication that the thickness of the tank shell or floor has thinned beyond the minimum criteria as described in API 653, or any other deficiency which has caused a reasonable expectation that a reportable release as defined in Env-Ws 412, has occurred or is imminent, the owner shall notify the department, and shall promptly implement remedial measures to eliminate the leak or deficiency.

(i) All detailed interior tank inspections shall be performed by an API certified inspector or a professional engineer with knowledge of tank testing procedures.

Env-Wm 1402.30 Spill Prevention Control and Countermeasure Planning.

(a) An owner of an AST facility subject to this part shall prepare and implement a Spill Prevention Control and Countermeasure (SPCC) Plan which shall be a written document establishing release prevention and response procedures for releases from the tank or tank systems.

(b) The SPCC Plan shall be prepared in accordance with 40 CFR 112.

Env-Wm 1402.31 AST Systems Containing Oil that is a Solid at Atmospheric Temperature and Pressure

(a) AST systems with a storage capacity of more than 660 gallons containing oil that is in the solid phase at atmospheric temperature and pressure shall:

(1) Be registered in accordance with Env-Wm 1402.05; and

(2) Have a spill prevention control and countermeasure plan prepared in accordance with Env-Wm 1402.30.

(b) New or relocated AST systems with a storage capacity of more than 660 gallons containing oil that is in the solid phase at atmospheric temperature and pressure shall have secondary containment in accordance with Env-Wm 1402.21. All stormwater that accumulates within the secondary containment shall be managed in accordance with Env-Wm 1402.33.

(c) Owners of new facilities with AST systems containing oil that is in the solid phase at atmospheric temperature and pressure shall obtain plan approval in accordance with Env-Wm 1402.17 prior to construction of the facility.

Env-Wm 1402.32 Oil-Filled Electrical Equipment.

(a) All facilities with oil-filled electrical equipment containing more than 660 gallons of oil shall be registered with the department in accordance with Env-Wm 1402.05 (b) and (c), except that the information described in Env-Wm 1402.05 (b)(5)d.-g. shall not be included.

(b) Owners of facilities with oil-filled electrical equipment containing more than 660 gallons of oil shall prepare and maintain a spill prevention control and countermeasure plan in accordance with Env-Wm 1402.30.

(c) All new facilities containing oil-filled electrical equipment greater than 660 gallons shall have a method of preventing a release of oil from the equipment from escaping into surface waters or groundwater of the state.

(d) Such a method shall include:

(1) The installation of an impermeable barrier in the soil beneath equipment,

(2) The installation of a structure, such as a collection sump that conveys all liquids to an oil-water separator for treatment, or

(3) Some other engineered solution that will meet the performance standard of paragraph (c), above.

Env-Wm 1402.33 Stormwater Management Requirements.

(a) Stormwater which collects and is retained within a secondary containment area shall be removed by a manually-activated pump or siphon, or a gravity drain pipe.

(b) Pumps, siphons, plugs, or valves shall be maintained in good condition.

(c) If gravity drains are used, valves shall be fixed and locked in the closed position except when a controlled discharge is occurring.

(d) Stormwater or other controlled discharge from the oil transfer containment area or from within a secondary containment structure for a tank at a facility shall be free from an oil sheen before being discharged to the environment.

(e) Stormwater which is contaminated with oil shall be treated prior to discharge. All stormwater discharges shall be performed in accordance with all applicable state and federal requirements.

(f) Accumulated stormwater shall be drained as soon as practical and frequently enough to ensure that sufficient containment volume is always available to contain a release from the largest tank being contained.

Env-Wm 1402.34 Recordkeeping Requirements.

(a) All records required to be kept pursuant this part shall be maintained in permanent form for the period specified below and shall be made available for inspection by the department at the facility.

(b) If records are not kept at the facility, they shall be available at the facility or other mutually agreed upon location upon 5 working days notice.

(c) The owner shall maintain the following records:

(1) For a period not less than 3 years:

a. Results of monthly inspections of the facility required under Env-Wm 1402.29;

b. Copies of all correspondence from the department, the New Hampshire state fire marshal, or the local fire department relating to the facility; and

c. Records of the type of oil stored in each tank and the date of any applicable conversion.

(2) On an ongoing basis:

a. Dates and description of replacement of permanent components and substantial modification to AST systems;

b. Results of all tightness tests performed on piping associated the AST systems; and

c. A copy of the facility registration(s) and any amendments. If a facility registration form has not been amended within 10 years, the most recent registration shall be retained.

d. Copies of all approved plans for the facility pursuant to Env-Wm 1402.17;

e. Closure assessment reports; and

f. Results of all detailed AST system inspections at the facility required under Env-Wm 1402.29.

(d) If the ownership of any AST facility changes, all documentation required by (c) above and any other records relating to the systems shall be transferred from the person conveying the facility to the person accepting ownership of the property at the time of transfer.

Env-Wm 1402.35 Upgrading of AST systems.

(a) All existing AST systems shall have overfill protection in accordance with Env-Wm 1402.24 within 3 years of the effective date of this part.

(b) For facilities with systems storing motor fuels that are classified a Class I Flammable liquid under Saf-C 6009.01, the secondary containment of all existing AST systems containing such motor fuels shall meet the permeability standard described in Env-Wm 1402.21(b) within 10 years of the effective date of this part. If an existing tank containing Class I Flammable Liquids is in a common containment area with tanks containing other oil not a Class I Flammable Liquid, the secondary containment area for the tank containing Class I Flammable Liquid may be isolated from remaining tanks and upgraded to meet the permeability standards described in Env-Wm 1402.21(b). All existing containment areas shall be of sufficient size to meet 40 CFR 112.7(e)(2). Such upgrades shall be certified by a professional engineer as meeting this permeability and containment volume standard.

(c) All existing AST systems shall contain the markings described in Env-Wm 1402.18 (e) within 3 years of the effective date of this part.

Env-Wm 1402.36 Waivers.

(a) An owner may request a waiver of any requirement in this part in accordance with (b) below.

(b) All requests for waiver shall be submitted in writing to the department and shall include the following information:

(1) A description of the facility to which the waiver request relates, including the name, address, and registration number of the facility;

(2) A specific reference by section number to a requirement for which a waiver is being sought;

(3) A full explanation of why a waiver is being sought;

(4) A full explanation of the alternatives to the requirement(s) for which a waiver is sought, with backup calculations and the data for support, if applicable; and

(5) A full explanation of how the granting of the waiver is consistent with the intent of RSA 146-A and Env-Wm 1402.

(c) The department shall approve a request for waiver upon finding that:

(1) The alternatives proposed are at least equivalent to the specific requirements contained in the rule; or

(2) If the alternatives proposed are not equivalent to the requirements contained in the rule, they are adequate to ensure that the intent of RSA 146-A is met.

(d) No waiver shall be granted which contravenes the intent of any rule.

(e) The department shall issue a written response to a request for a waiver within 60 days of receipt of the request.